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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY DEAN SLAMA,
Plaintiff,

Case No. 1:08-cv-00810-SKO

v.

CITY OF MADERA, et al.,
Defendants.

ORDER ON THE PARTIES' MOTIONS IN LIMINE
(Docket Nos. 180, 181)

ORDER SETTING BRIEFING SCHEDULE ON PLAINTIFF'S PROPOSED MOTION FOR BIFURCATION

On August 19, 2013, the Court conducted a hearing on the parties' motions in limine ("MIL"). (Docs. 180, 181.) Plaintiff Anthony Dean Slama ("Plaintiff") appeared through his counsel, Andrew J. Fishkin, Esq. Defendants Officer Sheklanian and Officer Chavez (collectively "Defendants") appeared through their counsel, Gregory L. Myers, Esq. The Court issues the following rulings on the MIL and sets a briefing schedule on Plaintiff's proposed motion for bifurcation.

A. Defendants' Motions in Limine

On August 5, 2013, Defendants filed their MIL. (Doc. 180.) No opposition was filed. The Court rules as follows:

1 **1. Defendants' MIL No. 1** - The Court GRANTS Defendants' request to exclude
2 evidence or witnesses not previously disclosed during discovery and not identified in the pretrial
3 order.

4 **2. Defendants' MIL No. 2** - The Court GRANTS Defendants' request to exclude
5 non-party witnesses from the courtroom.

6 **3. Defendants' MIL No. 3** - The Court GRANTS Defendants' request to exclude
7 references to police training, and notes that District Judge Ishii had previously decided this issue
8 in the order granting in part and denying in part Defendants' motion for summary judgment. (*See*
9 Doc. 122, 17:1-3.)

10 **4. Defendants' MIL No. 4** - The Court GRANTS Defendants' request to exclude
11 evidence of any other complaint or lawsuit against Defendants or any other police department
12 officer.

13 **5. Defendants' MIL No. 5** - The Court GRANTS Defendants' request to exclude
14 expert opinions by non-experts, including Plaintiff. Plaintiff and Plaintiff's witnesses may not
15 testify on matters that are within the purview of an expert witness.

16 **6. Defendants' MIL No. 6** - Defendants have WITHDRAWN their request to
17 exclude photographs taken at the scene of the incident.

18 **7. Defendants' MIL No. 7** - The Court DENIES Defendants' request to exclude
19 medical records pertaining to Plaintiff; however, Defendants may raise any objections at trial.
20 Plaintiff is cautioned that if he seeks to introduce medical records, the evidence must comply with
21 the admissibility requirements set forth in the Federal Rules of Evidence.

22 **B. Plaintiff's Motions in Limine**

23 On August 5, 2013, Plaintiff filed his MIL. (Doc. 181.) No opposition was filed. The
24 Court rules as follows:

25 **1. Plaintiff's MIL No. 1** (numbered as 1) - The Court GRANTS Plaintiff's request to
26 exclude evidence or witnesses not previously disclosed during discovery and not identified in the
27 pretrial order.

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1 **2. Plaintiff's MIL No. 2** (numbered as I and 2) - The Court GRANTS Plaintiff's
2 request to exclude non-party witnesses from the Courtroom

3 **3. Plaintiff's MIL No. 3** (numbered as II and 3) - The Court GRANTS Plaintiff's
4 request to exclude expert opinions by non-experts, including Defendants. Defendants and
5 Defendants' non-expert witnesses may not testify on matters that are within the purview of an
6 expert witness.

7 The Court had preliminary granted Plaintiff's request that Defendants appear "out of
8 uniform," but Plaintiff has WITHDRAWN this request.

9 The Court GRANTS Plaintiff's request to exclude testimony regarding Plaintiff's criminal
10 history. However, this ruling is subject to modification depending on purpose for which such
11 evidence is sought to be introduced at trial. The Court ORDERS that, if Defendants seek to
12 introduce any testimony or evidence regarding Plaintiff's criminal history, Defendants shall make
13 this request during a break and outside the presence of the jury -- prior to the introduction of such
14 evidence.

15 **4. Plaintiff's MIL No. 4** (numbered as III and 4) - The Court GRANTS Plaintiff's
16 request to exclude evidence and testimony regarding Defendants' successful arrest and conviction
17 of any other person. However, Defendants may introduce evidence of convictions as to Plaintiff's
18 specific witnesses for the purposes of impeachment in accordance with the requirements of
19 Federal Rule of Evidence 609.

20 **5. Plaintiff's MIL No. 5** (numbered as IV and 4) - The Court GRANTS Plaintiff's
21 request to exclude Plaintiff's prior criminal history, subject to the terms as set forth in the ruling in
22 Plaintiff's MIL No. 3. This MIL appears to be identical to Plaintiff's MIL No. 3 and is subject to
23 modification depending on the evidence sought to be introduced at trial. As set forth above, any
24 request by Defendants to introduce such evidence shall made to the Court during a break and
25 outside the presence of the jury – prior to the introduction of such evidence.

26 **6. Plaintiff's MIL No. 6** (numbered as V and 5) - The Court GRANTS Plaintiff's
27 request to exclude the testimony of any undisclosed expert and, as stated above in the ruling on
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1 Plaintiff's MIL No. 3, the Court GRANTS Plaintiff's request to exclude expert opinions by
2 non-expert witnesses, including Defendants.

3 **C. Briefing Schedule for Plaintiff's Proposed Motion for Bifurcation**

4 During the motion in limine hearing, Plaintiff's counsel indicated that he is considering
5 filing a motion for bifurcation.

6 The Court provided the parties with its preliminary ruling on this matter and ORDERS the
7 parties to meet and confer on this issue. Should Plaintiff decide to file a motion for bifurcation,
8 the Court SETS the following briefing schedule:

9 Plaintiff's opening briefing shall be filed by **no later than Wednesday, August 24, 2013,**
10 **at 12:00 p.m. (noon),**

11 Defendants' opposition brief shall be filed by **no later than Thursday, August 25, 2013,**
12 **at 5:00 p.m.**

13 The motion will be deemed submitted at that time. No oral argument will be necessary
14 unless requested by the Court.

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17 IT IS SO ORDERED.

18 Dated: August 20, 2013

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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